IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.7813 of 1997

Between:

The Working President, A.P. Public Health and Hospital Employees' Union, Hyderabad, rep.by Sri Mohd.Ghouse.

...PETITIONER

AND

1. The Labour Court-I, IInd Floor, Chandravihar Building, M.J.Road, Hyderabad, rep.by its Presiding Officer.
2. The Superintendent, Nizamia General Hospital, Charminar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent in I.D.No.578 of 1993 and M.P.No.325 of 1993 and issue a writ order or direction particularly one in the nature of writ of certiorari and quash the award and the order passed by the 1st respondent in I.D.No.578 of 1993 and M.P.No.325 of 1993 dated 4.11.1996 published on 24.1.1997 and grant all consequential benefits.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: GP FOR LABOUR

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.7813 of 1997

ORDER:

The petitioner which is a Union, espousing the cause of the workers, filed this Writ Petition *inter alia* challenging the award dated 04.11.1996 of the first respondent in I.D.No.578 of 1993 negotiating the reference as sought for in respect of the claim made by one Mohd.Kareemuddin to the post of Pump Driver in Nizamia General Hospital, Charminar, Hyderabad.

The facts in brief, which are necessary to dispose of this Writ Petition are that even though the said Mohd.Kareemuddin was appointed as a waterman, but his services have been extracted as a Pump Driver and it is necessary that he needs to be provided with all the benefits in the said post of Pump Driver and also to be appointed accordingly. Subsequent to the reference, during the pending of enquiry before the first respondent herein, both sides produced their evidence and ultimately, the reference was answered in the negative holding that there being no such post of Pump Driver, the petitioner cannot lay any claim through.

Learned counsel appearing for the petitioner strenuously contended that though the said Mohd.Kareemuddin was appointed to a lesser post, but having extracted

substantial work for the higher post, he can derive all the benefits.

Having considered the submissions made and also on perusal of the material available on record, there is no denial of the fact that there is no such post in respect of which the work has been extracted by the second respondent herein. Though there is no justification as such for extracting such work from a waterman in respect of normal duties assigned to the post of a Pump Driver, however, the petitioner cannot get any such relief due to the fact that there is no such post. Hence, I do not find any justification to interdict with the orders.

The Writ Petition is accordingly dismissed. However, it shall be open to the second respondent to consider the claim of the petitioner in the event of any such vacancy arises or already arisen and grant necessary benefits and relief to the petitioner.

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(B.PRAKASH RAO, J)

2nd December 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Presiding Officer, Labour Court-I, IInd Floor, Chandravihar Building, M.J.Road, Hyderabad.(With records)
2. The Superintendent, Nizamia General Hospital, Charminar, Hyderabad.
3. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.
5. One CC to Mr.A.K.Jaya Prakasa Rao, Advocate.